

***United States Court of Appeals
for the Second Circuit***



APPENDIX

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74-2556

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 74-2556

UNITED STATES OF AMERICA,

Appellee,

—against—

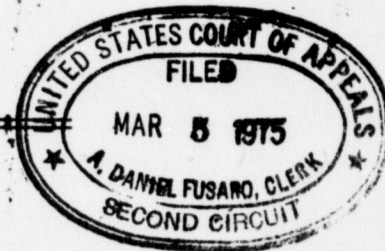
JOHN DOE, a/k/a JUANITO CANELA CASTILLO,

Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX

DAVID G. TRAGER,
*United States Attorney,
Eastern District of New York.*



PAGINATION AS IN ORIGINAL COPY

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2 MS. SEYBERT: Your Honor, Mr. Adlerstein,
3 Mr. Foreman and ladies and gentlemen of the jury.

4 I now have the opportunity to make my final
5 arguments to you. This will be the last time
6 that I will be talking to you as his Honor just
7 indicated.

8 At this time, I am going to attempt to show you
9 how the government prosecution has failed to establish
10 these charges beyond a reasonable doubt.

11 The charge that my client, Mr. Castillo entered
12 the United States on October 15, under an assumed
13 name; and failed to disclose his true identity for
14 purposes of evading Immigration laws.

15 As his Honor just stated, this will be the last
16 time that I will be speaking to you, and I don't, I
17 won't be able to respond to any of the arguments that
18 the Government may make after I sit down. So I just
19 request that you consider any responses I might have
20 made for the defendant to the government's arguments.

21 I believe that there are four areas of reasonable
22 doubt here. Four things that should cause a reasonable
23 doubt in your mind, as to why the defendant is not guilty
24 of these charges.

25 First; is the lack of evidence that the defendant

Seybert-summation

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2 is anyone other than Juanito Cancela Castillo,
3 secondly; the great possibility of error in the
4 processing of various documents that have been
5 introduced to you; thirdly, is the defendant's
6 prior entry into the United States and four; is
7 the defendant's own statements concerning his identity.

8 So, let us now go through those four items
9 and review some of the evidence that you have heard
10 during this short trial.

11 First, there is no evidence that my client was any-
12 one other than Juanito Cancela Castillo. As I
13 indicated earlier, he is not required to prove his
14 identity, and he is presumed to be innocent. The
15 government has failed to tell you who my client is.

16 They failed to prove that he is anyone other
17 than Juanito Cancela Castillo. If the government is
18 so sure that my client is not Mr. Castillo, then who
19 is? Well, they don't tell us that.

20 All the evidence that has come before you in
21 this trial has come from the defendant. Physically,
22 all the documents, his passport, his cedula, his
23 plane ticket, his I-94, etcetera.

24 All those documents, what name appears? Juanito
25 Cancela Castillo.

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2 The Government has failed to come up with one
3 document at all, which indicates that this man
4 has ever used any other name. This is all he had
5 on him; this is the name, "Juanito Cancellla Castillo."

6 In substance, the government would have you
7 convict my client on this unstable premise. This
8 defendant is not Juanito Cancellla Castillo. We don't
9 know who he is, and we don't know who Juanito Cancellla
10 Castillo is.

11 Well, if my client is not Juanito Cancellla Castillo,
12 the, where is Juanito Cancellla Castillo? Why isn't
13 he in court today, claiming those documents, saying
14 this is my passport, this is my cedula, these are all
15 mine? This man is not Mr. Castillo. Surely the
16 government can't expect the defendant to go down to
17 the Dominican Republic and locate this person.

18 This lack of evidence creates a big hole in the
19 Government's case. Why can't they tell you what his
20 identity is? Why isn't there another person in here
21 claiming that he is Juanito Cancellla Castillo?

22 Now, you are the ultimate triers of the facts,
23 and you have heard testimony, and it is you that makes
24 the final decision on the facts. You have evidence
25 here and you have handwriting examples, and you have

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2 handwriting analysis.

3 I ask you to look at those documents and to
4 compare them. Mr. Donovan, the government's witness,
5 testified that there were similarities. Look at the
6 documents and ask yourself if you were stopped in
7 a foreign country and someone said, sign your name,
8 wouldn't you be frightened?

9 Wouldn't you write a little bit differently?
10 Mr. Castillo has indicated he is not terribly pro-
11 ficient at handwriting or reading. Consider the
12 conditions that this handwriting was taken under. A
13 man surrounded by foreign-speaking people, his
14 documents being investigated the first time, obviously
15 he was frightened and he was apprehensive.

16 He didn't know what was going on and certainly,
17 this would cause any person to write differently.
18 Basically, the governments failure to prove my client's
19 identity, should indicate to you that he is in fact,
20 Juanito Cancela Castillo.

21 Second area, large area of reasonable doubt, is
22 the possibility of error. Now, the defendant is not
23 claiming that any of the government witnesses are
24 lying. But they very well may be mistaken. Mrs.
25 Wythe testified an individual came to the American

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2 Embassy on April 18, and requested a visa application.
3 That application is in evidence. My client has
4 testified he is not certain of whether or not that
5 application was in fact his.

6 This application is filled out by some
7 individual. Mrs. Wythe doesn't know who that person
8 is. She can't recall who came into her office on
9 April 18th to fill out an application. She doesn't
10 know how many applications she has on file with the
11 name, Juanito Cancela Castillo. There are those, and
12 thousands and thousands of applications processed.

13 This woman has three to five minutes to process
14 an application. She is busy; she may leave her desk;
15 she staples it, she removes it; she does this all,
16 those different procedures in three to five minutes.
17 Ask yourself, isn't there a great possibility of error?

18 We are all human, and not only is Mrs. Wythe
19 processing applications, but there are other officers
20 processing applications.

21 Mrs. Wythe didn't retain this application. There
22 are many persons working in the embassy, others who
23 have access to the files. Greater confusion can
24 occur here, and mistakes, I submit are made.

25 But my client is not being tried for mistakes.

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2 He is being charged with a serious crime, and
3 he can't prove what happened at the embassy. That's
4 all he can tell you, that he believes he went to the
5 American Embassy, and applied for a visa. He doesn't
6 know what day, and we don't know if there are any
7 other Juanito Cancela Castillo's around.

8 My client indicated that he waited three days
9 to get his passport. He doesn't know when he went
10 for his visa. We don't know how passports are issued
11 in the Dominican Republic. We don't know what
12 happened when my client went in for his passport.

13 We don't know who had access to passports in the
14 Dominican Republic. The passport is not issued by
15 the American Government. It is issued by the Dominican
16 Republic, and many documents have been lost by our
17 government.

18 It is not inconceivable that Mr. Castillo's
19 application was lost, or somehow, placed in the wrong
20 file, or a million and one different things. Things
21 do turn up subsequently. There is a large area of
22 reasonable doubt that some error occurred. But you
23 can't convict my client for administrative errors.

24 Ask yourself, have you ever been the victim of
25 an administrative error? My client, not being tried
for having an improper passport, or improper visa, he

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2 is being tried for knowingly and intentionally
3 entering the United States under an assumed name.

4 And we cannot, be so certain as to what went
5 on in the Dominican Republic as to conclude that
6 my client is guilty of those charges.

7 The third area is the area of reasonable doubt
8 concerning Mr. Castillo's prior entry. There is
9 some evidence that Mr. Castillo, or one Juanito
10 Cancela Castillo, entered the United States on May
11 9, 1974. Look at the passport itself in evidence.
12 It shows that Juanito Cancela Castillo came to the
13 United States for a visit. My client has testified
14 that he came here in May and that basically, he came
15 to visit and tour the City. He didn't know anyone
16 at that time.

17 Subsequently, he met an individual, Mr. Cava,
18 who he attempted to visit on his second trip to the
19 United States. Doesn't this fact create a reasonable
20 doubt in your mind? How can my client be admitted
21 to the United States on May 9, 1974, with this passport
22 and the visa, which is included under the name of
23 Juanito Cancela Castillo? Then, all of a sudden, on
24 October 15, these very same documents are not
25 sufficient for the Government.

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2 Isn't it puzzling? It's certainly a mystery
3 to my client.

4 He comes here one day, everything is fine.
5 He comes here the next day, and they are claiming
6 that this isn't his name any more. Ask yourself,
7 did my client act as if he was guilty? Did he
8 act as if he were trying to hide something? He was
9 stopped by Immigration and he presented his documents.
10 He freely answered the questions, and he went from
11 the primary to the second area.

12 Asked him to sign his name, signed his name.
13 What was his name; Juanito Cancela Castillo? And
14 Mr. Cava, who testified earlier here today, indicated
15 that he met my client in the Dominican Republic
16 sometime this summer. At that time my client
17 introduced himself as Juanito Cancela Castillo, or
18 introduced himself as Juanito.

19 Subsequently, when he came to the United States
20 on October 15, he called Mr. Cava up and said my name
21 is Juanito Cancela Castillo. He indicated to Mr. Cava
22 in the Dominican Republic he had been here in the
23 United States before. That he was planning to come
24 back.

25 Doesn't this create a reasonable doubt in your

mind?

The last area of reasonable doubt is my client's own statements. As you know, a defendant in a criminal trial is presumed to be innocent. He doesn't have to take the stand, but my client did take the stand. He did want to tell you in the best way that he could his version of the facts as much as he knew.

Throughout this trial, and throughout the evidence, I am sure you realize that he has always said his name is Juanito Cancela Castillo, never wavered from that.

He entered the United States and presented those papers with that name on it. Presented the cedula, identity papers, that are used in the Dominican Republic, and he told the Immigration officials, this is my name.

All his identity was in that name. At no time, has he ever indicated that he was anybody else. He testified in Court that he was born in the Dominican Republic. His mother's name was Anna Rosa Cancela Pallano. His father was Cancela Castillo, and he testified that his parents are dead.

Basically knows his name from his birth certificate which he obtained in the Dominican Republic.

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2 I am sure that you observed the answers of
3 the defendant and his reaction to various questions
4 and I am sure that you realize that he is not a
5 well-versed man in either Spanish or obviously,
6 English.

7 He tells us that he has a limited education.
8 He didn't even go to school when he was a young boy.
9 He has been going back and forth to school for some
10 time.

11 He is a peddler, he lives by himself and has
12 no family in the Dominican Republic. How can he
13 prove his identity by other than a document that
14 has been presented to this Court. He is not well-
15 versed in governmental affairs, and filling out
16 applications.

17 Someone helped him, he is sure. Someone in
18 the office. Denies buying these documents on the
19 street, and he tells you that this is the name he
20 has used for 36 or 37 -years.

21 He is really not all that certain of his birth
22 date, and he is just good in figures, as he indicated
23 to you.

24 But this is a serious crime. Requiring a
25 criminal intent to knowingly and intentionally enter

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2 the country to evade Immigration laws.

3 Ladies and gentlemen, my client has consistently
4 maintained that this is his true name. I can't
5 speculate on what happened down in the Dominican
6 Republic when those documents were issued. My client
7 has testified that he participated in no wrongdoing
8 to the best of his knowledge, and he went to the
9 proper places to get those applications.

10 He doesn't recall meeting Mrs. Wythe, but he
11 does recall going to an American Consulate Embassy.

12 His statements, I feel, are such as to create
13 a reasonable doubt in your minds, combined with the
14 lack of evidence as to who is Juanito Cancela Castillo,
15 combined with the great, great possibility of an
16 administrative error here, and with my client's prior
17 entry into the United States, with those documents.

18 I would ask you to acquit him for the government
19 has failed to prove beyond a reasonable doubt that
20 my client is guilty of those charges.

21 I remind you that this is not an administrative
22 type proceeding, it is a criminal trial, and you must,
23 under your oath, hold the government to its burden,
24 heavy burden of proving beyond a reasonable doubt,
25 to a moral certainty, my client is guilty of those

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2 charges.

3 And I would ask you to acquit him, based on
4 the evidence; thank you.

5 THE COURT: Mr. Adlerstein?

6 MR. ADLERSTEIN: Yes, your Honor.

7 (Continued on next page.)
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2 MR. ADLERSTEIN: Your Honor, ladies and
3 gentlemen of the jury, Ms. Seybert:

4 The government feels that there are two types
5 of evidence that you have heard in this case.

6 The first type is the documents which were
7 submitted by the government's witnesses, the second
8 type is the oral testimony of the defendant in his
9 own behalf and of a friend of his, in the defendant's
10 behalf.

11 First, I would like to talk to you about those
12 documents and what they conclusively show about
13 the history of this defendant.

14 First, we had Mr. Green, Immigration Inspector
15 at Kennedy Airport, who said that the defendant got
16 off the plane and handed him a passport and a visa,
17 stamped inside.

18 He looked at the birthdate that was in the
19 passport, birthdate in the passport looked to him like
20 it was older than the age of the defendant.

21 The birthdate said, "18 June, 1937." The
22 defendant looked to him as though he were somewhat
23 younger than that.

24 So, he sent the defend * on to a second counter
25 area, where the defendant's documents were more
closely inspected.

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2 Firstly, the government has produced an expert
3 witness to show that the date of birth as indicated
4 on the passport, was changed from 1957 to 1937.

5 The defendant has, in this trial, contended that
6 he was thirty six or thirty seven years old, which
7 would correspond to the 1937 date. The government
8 contends if it was, that the defendant's contention
9 to use that 36 or 37 year old date, he would have
10 had to change it if he had gotten this document
11 legitimately.

12 If it said 1957, he would have to change it to
13 1937, if he wanted to represent himself as that
14 particular age.

15 The Government is not going to try to produce
16 or show you hold od this defendant is. The government
17 is not going to try to prove to you who the defendant
18 is, because that is not relevant to this trial.

19 Besides, Ms. Seybert tried to raise certain
20 doubts in your mind about the true identity of the
21 defendant. But the government submits that that is
22 not at issue. The only thing that the Government
23 has to show, is that the defendant is not the person
24 who owns this passport and who owns the visa that
25 was stamped inside the passport that was necessary to

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come into the United States.

On the passport, you can see the date, I think it's clear to the naked eye, the birthdate was changed from 1957 to 1937. In addition, on the passport, there is a thumbprint. Introduced into evidence in this trial, were certain fingerprints that were taken of the defendant when he was brought down to Immigration headquarters.

We have had an expert who was put on the stand who testified that the fingerprint that is in the passport, was not the same as the fingerprints that were on that fingerprint card.

You heard the defendant when he was on the stand. He told us that he thought this was his fingerprint, his thumbprint. I think the defendant was lying to us when he said that, because it is not his thumbprint.

Lastly, the signature on the passport. The signature that is in this document is not the signature of the same person who signed the samples with the immigration at the Immigration headquarters.

Remember, he signed twice at the Immigration headquarters, and the expert that the government put on the stand, was able to testify the two signa-

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2 tures that we had as samples, were signed by the
3 same man, but they were not signed by the same man
4 who signed the signature in the passport.

5 Also, we have heard the testimony of Catherine
6 Thompson, the Immigration Inspector at the airport.
7 She felt after she looked at this document, from her
8 own experience as an expert examining passports,
9 there could very well have been a photo substitution
10 on this passport.

11 I would ask you, ladies and gentlemen of the
12 jury, that when you have an occasion to examine this
13 document, you take a look at the back page of it,
14 the photo page, and see that there are two seals
15 on the background, and in turn for the photograph
16 itself, and notice it has one seal.

17 I think like Miss Thompson, you will come to
18 the conclusion there was a photo substitution. The
19 document is phony, document never belonged to the
20 defendant; he got it from somebody else or may have
21 made it up himself.

22 Doesn't matter, the document is not his.

23 He impersonates the person who it was issued to.

24 We have in this trial, introduced into evidence,
25 the airplane ticket. The airplane ticket, as I think

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2 I brought out on my cross examination of the
3 defendant, has no return stamp in it.

4 Now, if the defendant was only going to come
5 here for a couple of days, as he said, or even a
6 week, as he said, would it have been possible for
7 him to have bought an airplane ticket which did not
8 have a return date? He knew he had to go back. The
9 government submits that it was not logical. Why did
10 he buy a round trip ticket? -----I think I also
11 explained that on cross examination.

12 He probably could not have gotten into this
13 country if he had had only a one way ticket, because
14 the Immigration people want to see that there is
15 a way the person has of getting back. Otherwise,
16 it appears you are staying here, and you dont have
17 an intention to go back.

18 On a tourist visa, that would appear to be
19 fishy and I think the defendant knew that that's
20 why there was no return date on the airplane ticket.

21 So far as the defendant's cedula is concerned,
22 you heard him testify that this is an important document
23 within the Dominican Republic. People have to carry
24 it around. It has his photograph on it, but, too,
25 two important things are missing from this document;

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2 number one, there is a place as the defendant pointed
3 out on the stand, there is a place for a thumbprint.
4 There is a place for a signature. What important
5 documents do we carry around in this country, on
6 which there is a signature?

7 I think that all of us know that when we carry
8 around documents, especially if there is a place
9 for a photograph or a signature, it's important
10 to have any signature on this. The defendant didn't
11 have it, and I think that just points out the fact
12 that this is a phony cedula.

13 On cross examination, the defendant said that
14 he felt that the date 11/10/1974, was June -- excuse
15 me for a second.

16 8/10/11, 1937 was June 18, 1937. You heard
17 that, and he's good in mathematics, you know, he
18 knows how to count, he knows the months of the year.

19 I submit to you how can he know or how could
20 he actually assume that date that's written on there
21 is June 18th? I think there is virtually no way
22 that can be done. So, this, too, is really a
23 phony document.

24 Then, we have the testimony of Evelyn Wythe,
25 the Consulate Officer from the Dominican Republic in

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2 the United States Embassy in Santo Domingo.

3 She testified on April 18, 1974, a man, a young
4 man came into her office or the area immediately
5 before her window, and presented to her a passport.
6 This passport had the visa and the visa application
7 form.

8 You heard that the same numbers are stamped
9 in each document. You heard that Miss Wythe makes
10 it her practice to write down the date of birth from
11 the passport onto the visa identification form.

12 You heard Miss Wythe say that she takes a
13 look at the photograph which she immediately staples
14 to those application forms and looks at the person
15 who is applying to make sure that the face corresponds.

16 If you take a look at this document, and you take
17 a look at the photograph that is on it, I think it is
18 very clear the person who obtained this document on
19 April 18th, 1974, is not the same person as the
20 defendant.

21 Sometime after that, the government is convinced,
22 that the defendant picked up the visa and picked up
23 the passport on which the visa is written. The
24 defendant has also told us he has been to the United
25 States before. There is actually nothing that shows

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2 that he has been, and I think the cross examination
3 has shown to some extent, at least, that he has not
4 been in this country. He went for two, three days,
5 and he spent four hundred dollars. He remembers
6 very well about what he did and he said he sat in
7 a hotel room. None of it sounds very logical to me.

8 The defendant has not shown us one kernel of
9 proof that he was in the United States in May. Says
10 he had no friends and didn't talk to anyone. Just
11 doesn't seem logical he would have been here at
12 that time.

13 The defendant has tried to make something of
14 the fact that the defense counsel has tried to make
15 something of the fact the defendant is not well-
16 schooled. The government has a lot of education. You
17 can't be expected to understand administrative
18 procedures. Can't be expected to write down things
19 or where to write them down.

20 The government submits to you that the government
21 is not as uneducated in a certain way as the defense
22 attorney says he is. The defendant has told us dates
23 of his last trip. He remembered the dates of his
24 last trip. Why? Because he knew he had to remember
25 the dates of his last trip? It was stamped in this

1 passport, passport he tried to use. He knew he had
2 to know those dates in case he was asked when he
3 came here.
4

5 He remembered the amount of money that he had
6 to pay for this document. He remembered the fact
7 the age 16, he has to carry around a cedula form.

8 Most important of all, this is a man who owns
9 a buisness. This is a man who carries on a business
10 who makes enough money to make two trips to the
11 United States inside of six months. One trip costing
12 four hundred dollars and the other trip, if you look
13 at the airplane ticket, that is what he said the
14 cost in May cost.

15 If you took a look at the airplane ticket, the
16 airplane ticket on this trip cost him \$258. A man
17 who makes that kind of money over this business, that
18 he is going to take trips, - you heard him say he
19 had to go back to his business.

20 He travels around the Dominican Republic. It
21 seems to me that this is not a man who is so unconfident
22 of himself.

23 A man who knows so little that he couldn't
24 understand what he did. I think the defendant knows
25 very well what he did.

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2 He picked up false documents in order to try
3 to gain entry into the United States. The
4 defendant, unfortunately, I think, has lied several ✓
5 times to people in this country.

6 I think he lied to the people at the airport,
7 in primary and then in secondary, when he presented ✓
8 those phony documents.

9 He lied again, I think, at Immigration headquarters, ✓
10 and I think unfortunately, he lied to all of us when ✓
11 he took the stand today.

12 THE COURT: You understand, what counsel thinks
13 is not important, what you think is.

14 He is just suggesting what you should think.
15 His thoughts are of importance on this point.
16 Proceed.

17 MR. ADLERSTEIN: Lastly, we have the testimony
18 of his friend, Jose Cava, the government submits this
19 is a friend of his who was trying to help him out.
20 And that his testimony carries really very little
21 weight if you put it all together. The story is very
22 clear. Somewhere between April 19 and October 15, 1974,
23 the defendant picked up this phony passport with a
24 visa inside.

25 He picked up a phony cedula, and he tried to come

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2 into the United States, knowing he was impersonating
3 somebody else.

4 There is no other logical conclusion that you
5 can draw from all the evidence; thank you very
6 much.

7 (Continued on next page.)
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1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 -----X

5 UNITED STATES OF AMERICA, :

6 Plaintiff, :

7 -against- : 74-CR-671

8 JOHN DOE a/k/a :
9 JUANITO CANELA-CASTILLO, :

10 Defendant.
11 -----X

12
13 United States Courthouse
14 Brooklyn, New York

15 November 26, 1974
16 11:00 o'clock a.m.

17 B e f o r e :

18 HON. JACK B. WEINSTEIN,

19 U.S.D.J.
20
21
22
23

24 HENRY R. SHAPIRO
25 OFFICIAL COURT REPORTER

A p p e a r a n c e s :

DAVID G. TRAGER
United States Attorney
Eastern District of New York

By: LEE ADLERSTEIN
Assistant United States Attorney

JOANNA SEYBERT
Legal Aid Society
Attorney for Defendant

* * *

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2 THE CLERK: For sentencing, United
3 States of America versus John Doe also known
4 as Juanito Canela-Castello.

5 THE COURT: Have you had an opportunit
6 to read the probation report?

7 MISS SEYBERT: Yes, I have.

8 (Interpreter sworn.)

9 THE CLERK: State your name.

10 MR. GUMA: Jack Guma.

11 THE COURT: I will hear you on the sentence.

12 MISS SEYBERT: Your Honor, I have reviewed
13 the probation report and I am sure it doesn't
14 bring to light any new facts.

15 At best we know he has no criminal record
16 here in the United States as verified by the
17 Government. The Government still has been unable
18 to identify him in any manner other than in the
19 conviction about a week ago. I would request
20 your Honor consider the facts brought out during
21 the trial, that my client is a person of limited
22 background. The report indicates that he is
23 barely literate, not an educated man. I request
24 that the Court consider the language problem here.
25 It has been very difficult communicating with

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2 him throughout this entire proceeding. Such
3 communication has gone on through an interpreter.
4 I ask the Court to consider that my client may
5 very well be incarcerated when he returns to
6 the Dominican Republic. They have a policy of
7 incarcerating individuals deported from the
8 United States. There has been no evidence that
9 my client entered this country with criminal
10 intent. He simply entered several weeks ago
11 for the purpose of a visit. I request the Court
12 to consider his request that he desires very
13 much to be sent back to the Dominican Republic
14 and that he will not return here ever again.

15 THE COURT: I will address you by the
16 name that you have used in your testimony.

17 Mr. Gino Canela-Castillo, do you
18 have anything further to add to what your
19 attorney has said?

20 THE DEFENDANT: No, my attorney speak
21 for me.

22 THE COURT: Does the Government have
23 anything to add?

24 MR. ADLERSTEIN: No.

25 THE COURT: I observed the defendant

1 during the course of the trial and in my
2 mind beyond a reasonable doubt he perjured
3 himself. However, I am not going to add to
4 his sentence on that ground. I am going to
5 sentence him to a substantial jail term
6 because this was a deliberate and clear attempt
7 to defraud the United States by using false
8 passports and other documents. No contrition
9 has been shown by the defendant. The defendant
10 does not have a family. I believe that he is
11 an intelligent person and that he deliberately
12 entered into this fraud.
13

14 In order to punish him and to deter
15 others, I sentence him to two years imprisonment.

16 Is there anything further?

17 MR. ADLERSTEIN: No, your Honor.

18 MISS SEYBERT: Your Honor, the defendant
19 I believe intends to appeal this case. I have
20 tried to describe the appellate process.

21 THE COURT: I will now inform him:

22 You have the right to appeal from the
23 judgment of this Court. If you are unable to
24 pay the cost of the appeal you may apply for
25 leave to appeal as a poor person, in which case

1
2 the Government will pay for your appellate
3 lawyer and for the preparation of all necessary
4 documents.

5 Would you like to appeal?

6 THE DEFENDANT: As I said before, it is
7 up to my lawyer.

8 THE COURT: All right, you are going to
9 appeal, are you?

10 MISS SEYBERT: Yes, your Honor.

11 THE COURT: All right, is there anything
12 further?

13 MISS SEYBERT: No, your Honor.

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15 * * *
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AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK } ss

LYDIA FERNANDEZ

being duly sworn,

deposes and says that he is employed in the office of the United States Attorney for the Eastern District of New York.

That on the 5th day of March 19 75 he served a copy of the within
Government's Appendix

by placing the same in a properly postpaid franked envelope addressed to:

William J. Gallagher, Esq.

The Legal Aid Society

Federal Defender Services Unit

509 United States Court House

Foley Square, New York, N. Y. 10007

and deponent further says that he sealed the said envelope and placed the same in the mail chute
drop for mailing in the United States Court House, ^{225 Cadman Plaza East} ~~Washington Street~~, Borough of Brooklyn, County
of Kings, City of New York.

Lydia Fernandez
LYDIA FERNANDEZ

Sworn to before me this

5th day of March 19 75

Martha Scharf

MARTHA SCHARF
Notary Public, State of New York

Commission Expires 75

